

### **REMARKS**

The Examiner is thanked for the thorough review of the claim language and the suggested changes to clarify the claim language. As indicated and shown above, the claims have been amended to improve their clarity in accordance with the language amendments suggested by the Examiner.

In the Official action, the Examiner rejected claims 1-16 under 35 USC 103(a) as being obvious in view of the Examiner's characterization of the prior art in the Background of Invention section and US Patent No. 4,537,430 (Sullivan). The Examiner's obviousness rejection has been carefully considered, but is respectfully traversed for the reasons that follow.

As defined by independent claims 1, 5, 9 and 13, the present invention is directed to embodiments of a fire-rated duct or a duct assembly for a fire-rated conduit. With reference to the Examiner's characterization of the prior art according to the Applicant, it is noted that the conventional Durasystems fire-rated duct systems as described comprise a support framework which is welded together and then clad with fire resistant composite panels, or a welded inner liner with an insulated cavity and an outer casing. The present invention as defined by independent claims 1, 5, 9 and 13, while directed to embodiments of a fire-rated duct or a duct assembly for a fire-rated conduit, does not comprise either a welded

support framework clad with fire resistant panels, nor does it comprise a welded inner liner with an insulated cavity and an outer casing. In view of these differences, it is submitted that even if one skilled in the art were to combine the teachings of Sullivan with the characterization of Applicant's prior art, the resulting apparatus would not be the same as that defined by independent claims 1, 5, 9 and 13. Therefore, on this basis alone it is submitted that the invention as defined by claims 1, 5, 9 and 13 are not obvious. Since the remaining claims depend either directly, or indirectly, from these claims, it is submitted that the dependent claims are also not obvious for the same reasons.

Based on a careful and thorough reading of Sullivan, there is no mention or suggestion of a fire-rated duct or conduit assembly. Sullivan is merely concerned with a joining or connector system for duct sections. Sullivan is not concerned or interested with the specific requirements for a fire-rated application, as further evidenced by use of conventional, i.e. non fire rated, sealing gaskets and/or sealing compounds.

For the reasons as discussed above, neither Sullivan or Durasystems teaches or suggests the claimed duct structure. Furthermore when taken in combination, Sullivan and Durasystems does not result in the claimed duct structure. There must be a basis for combining or modifying references. The mere

fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Sullivan is not concerned with a fire-rated duct or a duct assembly for a fire-rated conduit. Sullivan does not teach the use of non-combustible panels or the use fire-resistant sealants or gaskets. As such there is no basis or motivation for combining the references, and therefore the invention as defined by the independent claims is not obvious. Moreover, notwithstanding the lack of any motivation or suggestion to combine the teachings, it is submitted that even if one skilled in the art were to combine the teachings of Sullivan and Durasystems, the resulting apparatus would not be the same as the duct structure defined by independent claims 1, 5, 9 or 13. Since the remaining claims depend either directly, or indirectly, from these claims, it is submitted that the dependent claims are also not obvious for the same reasons.

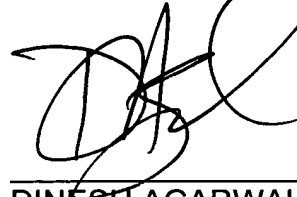
In view of the foregoing, favorable reconsideration and allowance of the subject application is respectfully requested.

It is believed that no additional fee is due for this submission. However, should that determination be incorrect, the Commissioner is hereby authorized to charge any deficiencies, or credit any overpayment, to our Deposit Account No. 01-0433, and notify the undersigned in due course.

Appl. No.: 10/705,967  
Amendment dated December 7, 2005  
Reply to Office Action of June 7, 2005

Should the Examiner have any questions or wish to discuss further this matter, please contact the undersigned at the telephone number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'D. Agarwal', written over a horizontal line.

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